

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fenkel	Team: Squad #6	CCRB Case #: 201804731	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 05/08/2018 6:55 PM	Location of Incident: Bryant Avenue and Bruckner Boulevard, 41st Precinct stationhouse	Precinct: 41	18 Mo. SOL 11/8/2019	EO SOL 11/8/2019	
Date/Time CV Reported Wed, 06/13/2018 4:50 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 06/13/2018 4:50 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Angel Andujar	11969	941348	041 PCT
2. SGT David Jimenez	774	941964	041 PCT
3. POM Emilio Estevez	13502	944542	041 PCT
4. POM Richard Ruiz	18806	962071	041 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Charles Rodriguez	00000	929065	041 PCT
2. POM Paul Tambe	12256	961348	041 PCT
3. POM Christophe Indovino	18914	958716	041 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Angel Andujar	Abuse: At Bryant Avenue and Bruckner Boulevard in the Bronx, Police Officer Angel Andujar detained § 87(2)(b) [REDACTED]	
B.POM Angel Andujar	Abuse: At Bryant Avenue and Bruckner Boulevard in the Bronx, Police Officer Angel Andujar threatened to damage § 87(2)(b) [REDACTED] s property.	
C.POM Angel Andujar	Discourtesy: At Bryant Avenue and Bruckner Boulevard in the Bronx, Police Officer Angel Andujar spoke discourteously to § 87(2)(b) [REDACTED]	
D.POM Emilio Estevez	Force: At Bryant Avenue and Bruckner Boulevard in the Bronx, Police Officer Emilio Estevez used physical force against § 87(2)(b) [REDACTED]	
E.POM Richard Ruiz	Force: At Bryant Avenue and Bruckner Boulevard in the Bronx, Police Officer Richard Ruiz used physical force against § 87(2)(b) [REDACTED]	
F.POM Angel Andujar	Abuse: At Bryant Avenue and Bruckner Boulevard in the Bronx, Police Officer Angel Andujar seized § 87(2)(b) [REDACTED] s property.	
G.SGT David Jimenez	Abuse: At the 41st Precinct stationhouse, Sergeant David Jimenez threatened to notify Administration for Children's Services.	
H.SGT David Jimenez	Abuse: At the 41st Precinct stationhouse, Sergeant David Jimenez did not process § 87(2)(b) [REDACTED] s complaint regarding officers.	

Case Summary

On June 13, 2019, § 87(2)(b) filed this complaint in-person at the CCRB.

On May 8, 2018, at approximately 6:55 p.m., § 87(2)(b) was working as a § 87(2)(b) and transporting § 87(2)(b) an § 87(2)(b)-old student, to the library. § 87(2)(b) was pulled over by PO Angel Andujar of the 41st Precinct at Bryant Avenue and Bruckner Boulevard in the Bronx. PO Andujar issued § 87(2)(b) a summons for disobeying a traffic device. § 87(2)(b) snatched the summons from PO Andujar's hand, at which point PO Andujar told § 87(2)(b) that she had an outstanding warrant (**Allegation A: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) refused to exit her vehicle upon request and PO Andujar allegedly yelled that he would break § 87(2)(b)'s "fucking window" (**Allegation B: Abuse of Authority**, § 87(2)(g); **Allegation C: Discourtesy**, § 87(2)(g)). Lieutenant Charles Rodriguez, PO Emilio Estevez, PO Richard Ruiz, and additional officers from the 41st Precinct arrived on scene. PO Estevez allegedly pulled § 87(2)(b) out of her vehicle (**Allegation D: Force**, § 87(2)(g)) and he and PO Ruiz allegedly dragged § 87(2)(b) to their vehicle (**Allegation D continued, Allegation E: Force**, § 87(2)(g)).

§ 87(2)(b) was arrested for § 87(2)(b). § 87(2)(b)'s vehicle was removed to the 41st Precinct stationhouse (**Allegation F: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b) was transported to the 41st Precinct stationhouse, where Sgt. David Jimenez allegedly threatened to call ACS if § 87(2)(b) did not provide the contact information of § 87(2)(b)'s parents (**Allegation G: Abuse of Authority**, § 87(2)(g)) and allegedly refused to process § 87(2)(b)'s complaint regarding officers (**Allegation H: Abuse of Authority**, § 87(2)(g)).

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) provided the CCRB with two cell phone videos she recorded during this incident. The original footage is located in IA #10 (Board Review 02) and IA #49 (Board Review 03) and is summarized in IA #65 (Board Review 04) and IA #66 (Board Review 05).

Findings and Recommendations

Allegation A – Abuse of Authority: At Bryant Avenue and Bruckner Boulevard in the Bronx, Police Officer Angel Andujar detained § 87(2)(b)

Cell phone footage recorded by § 87(2)(b) captures a portion of her interaction with PO Andujar. In the first video (Board Review 02), § 87(2)(b) speaks with a raised voice and asks PO Andujar to explain why she was pulled over. PO Andujar, who is holding a summons, tells § 87(2)(b) how long she has to respond and that all the information is on the back. § 87(2)(b) snatches the summons from PO Andujar's hand. PO Andujar then states, "You know what? Get out of the vehicle." PO Andujar orders § 87(2)(b) to exit her vehicle approximately 10 times and she refuses to do so, at which point PO Andujar tells § 87(2)(b) that she has an active warrant.

§ 87(2)(b) (Board Review 06) testified she was driving in the far-right lane of Bruckner Boulevard when she switched lanes without signaling and was pulled over by PO Andujar. PO Andujar, who was working alone, requested § 87(2)(b)'s license and registration, which she provided after his second request. PO Andujar returned to his vehicle and § 87(2)(b) began recording on her cell phone. PO Andujar returned to § 87(2)(b)'s vehicle with a summons for

the moving violation and § 87(2)(b) snatched it from his hand, along with her license and registration. PO Andujar then ordered § 87(2)(b) to exit her vehicle and stated that she was under arrest for an open warrant. § 87(2)(b) denied that she had an open warrant and told PO Andujar she would not be going anywhere with him. PO Andujar ordered § 87(2)(b) to exit her vehicle approximately three more times and she refused to do so.

PO Andujar (Board Review 07) testified that he pulled § 87(2)(b) over and issued her a summons for disobeying a traffic device for turning in a straight-only lane. While running § 87(2)(b)'s name in the DAS Lite mobile application on his department cell phone, PO Andujar learned that § 87(2)(b) had an open I-Card related to a robbery. PO Andujar was unable to see any additional information regarding this I-Card due to a poor connection. PO Andujar returned to § 87(2)(b)'s vehicle with her summons, which § 87(2)(b) snatched from his hand before he could mention the I-Card. PO Andujar told § 87(2)(b) that she had a warrant, and testified that he used this word because he did not believe § 87(2)(b) would understand what an I-Card was. § 87(2)(b) then denied she had a warrant and drove away. Given § 87(2)(b)'s denial of having a warrant and subsequent flight, PO Andujar feared the I-Card was "something serious" and pursued § 87(2)(b) to the next intersection, where she was ultimately apprehended. PO Andujar later learned at the 41st Precinct stationhouse that § 87(2)(b) had an active I-Card because she was a witness to a robbery.

The CCRB confirmed that § 87(2)(b) had an active witness I-Card at the time of this incident generated by Manhattan Robbery Squad (Board Review 08).

According to NYPD Patrol Guide, Procedure 208-23 (Board Review 09), the existence of an investigation card identifying an individual as a witness is insufficient authority to arrest or involuntarily detain the individual.

§ 87(2)(g)

Allegation B – Abuse of Authority: At Bryant Avenue and Bruckner Boulevard in the Bronx, Police Officer Angel Andujar threatened to damage § 87(2)(b)'s property.
Allegation C – Abuse of Authority: At Bryant Avenue and Bruckner Boulevard in the Bronx, Police Officer Angel Andujar spoke discourteously to § 87(2)(b)

In the second video cell phone video recorded by § 87(2)(b) (Board Review 02), which appears to begin when the first recording ended, § 87(2)(b) and PO Andujar continue to argue as to whether she has a warrant. § 87(2)(b) tells PO Andujar to have a nice day. For the next 30 seconds, an engine hum, beeping horns, screeching tires, sirens, and other miscellaneous vehicular sounds are heard. PO Andujar then orders § 87(2)(b) to exit her vehicle approximately five more times. At 2:00 minute mark, PO Andujar tells § 87(2)(b) "I'll break your fucking window."

§ 87(2)(b) denied that she left the location of the initial vehicle stop and testified that the vehicular sounds in her cell phone video was her beeping at the vehicle in front of her. § 87(2)(b) testified that PO Andujar banged on her driver's side window with his asp and yelled that

he would break the “fucking window.” In response, § 87(2)(b) told PO Andujar that she wanted him to break her window so he could “see what [she’s] made of.” Around this time, the vehicle behind § 87(2)(b) rear-ended her. PO Andujar continued to order § 87(2)(b) to exit her vehicle approximately 15 times. § 87(2)(b) did not exit her vehicle until she was forcibly removed from it.

PO Andujar testified that after § 87(2)(b) drove away, he ordered other vehicles on the roadway to stop to block § 87(2)(b) in traffic. § 87(2)(b) then put her vehicle into reverse and hit the vehicle behind her. PO Andujar again ordered § 87(2)(b) to exit her vehicle approximately four times and she refused to do so. PO Andujar initially did not recall if he threatened to break § 87(2)(b)’s window and denied using profanity towards her, but identified himself as the officer depicted in § 87(2)(b)’s cell phone footage.

An accident report (Board Review 10) prepared by PO Andujar documented that § 87(2)(b) “attempted to flee police custody” when informed of an open I-Card, and reversed into the vehicle behind her, the driver of which was removed to the hospital for injuries.

Neither Lieutenant Rodriguez (Board Review 11), PO Tambe (Board Review 12), PO Indovino (Board Review 13), PO Estevez (Board Review 14), nor PO Ruiz (Board Review 15) were present during this aspect of the incident.

According to Onderdonk v. State, 170 Misc. 2d 155 (1996) (Board Review 16), officers must give due respect to property but may damage property if doing so is reasonably necessary to carry out their duties. The courts have previously given latitude to officers who used otherwise impolite words to address suspects in stressful street situations. Disciplinary Case Nos. 79627/04 (Board Review 17).

§ 87(2)(g)

Allegation D – Force: At Bryant Avenue and Bruckner Boulevard in the Bronx, Police Officer Emilio Estevez used physical force against § 87(2)(b)

Allegation E – Force: At Bryant Avenue and Bruckner Boulevard in the Bronx, Police Officer Richard Ruiz used physical force against § 87(2)(b)

§ 87(2)(b) testified that after she was rear-ended, she stopped recording on her cell phone and called 911 to report the incident. Around this time, approximately 15 additional officers arrived on scene, surrounded her vehicle, and ordered her to exit from it. § 87(2)(b)-year-old § 87(2)(b) who had previously been asleep in the front passenger’s seat, opened the front passenger’s side door, which caused all of § 87(2)(b)’s doors to unlock. PO Estevez, identified by the investigation, grabbed § 87(2)(b) by the back collar of her jacket and pulled her out of her vehicle. § 87(2)(b) fell onto the ground outside. PO Estevez and PO Ruiz, also identified by the investigation, lifted § 87(2)(b) into a standing position by each of her arms. § 87(2)(b) ordered the officers to get off her, but PO Estevez and PO Ruiz allegedly pushed § 87(2)(b)

against her vehicle, causing her chest and face to make contact with it. § 87(2)(b) acknowledged that she was “not complying” at this time but denied that she did anything to physically resist the officers. § 87(2)(b) was handcuffed and escorted to a vehicle by PO Estevez and PO Ruiz. PO Estevez and PO Ruiz each held onto one of § 87(2)(b)'s arms. Though § 87(2)(b) faced the same direction as PO Estevez and PO Ruiz, she refused to move her legs along with them, and PO Estevez and PO Ruiz allegedly dragged her feet along the ground. § 87(2)(b) alleged that she sustained pain and bruising to one of her arms, she could not recall which, from the officers dragging her to their vehicle.

§ 87(2)(b) provided a photograph (Board Review 18) taken on May 10, 2018, which depicted a bruise on her bicep. § 87(2)(b)'s medical records (Board Review 19) document that she was transported to § 87(2)(b) in police custody, where she complained that officers pushed her onto the hood of her car and handcuffed her. § 87(2)(b) complained of pain to her wrist, neck, and back. § 87(2)(b) was diagnosed with acute pain due to trauma and discharged with instructions to take Tylenol and Motrin as needed.

PO Estevez and PO Ruiz each testified that § 87(2)(b) was already handcuffed outside of her vehicle at the time of their arrival. PO Estevez and PO Ruiz denied pulling § 87(2)(b) out of her vehicle or pushing her against it, and denied seeing any other officers do so. However, these allegations have been pleaded to PO Estevez and PO Ruiz as they identified themselves as the officers who escorted § 87(2)(b) to a vehicle. PO Estevez testified that he and PO Ruiz each grabbed § 87(2)(b) by one of her arms and walked her to their vehicle. PO Estevez did not recall there being any issue with getting § 87(2)(b) to the vehicle and denied that she was physically resistant. PO Ruiz was unable to recall the details of how § 87(2)(b) got to their vehicle, but denied that there was any issue. Both PO Estevez and PO Ruiz denied that they ever dragged § 87(2)(b) to their vehicle.

Lieutenant Rodriguez testified that upon his arrival, § 87(2)(b) was refusing to exit her vehicle, which was stopped in the right travel lane of Bruckner Boulevard. § 87(2)(b) opened one of the vehicle's doors and an officer, Lieutenant Rodriguez could not recall who, reached inside, grabbed § 87(2)(b) by her arm, and escorted her to the rear of her vehicle. Lieutenant Rodriguez had no recollection of ever seeing § 87(2)(b) on the ground and denied seeing officers use any physical force on her.

PO Andujar testified that given § 87(2)(b)'s continued refusal to exit her vehicle, he walked away after additional backup officers arrived on scene. PO Andujar stood approximately a car length away from § 87(2)(b)'s vehicle and spoke with an unidentified plainclothes. PO Andujar did not pay attention to § 87(2)(b) and did not see the remainder of her interactions with officers. PO Andujar denied that he saw any officers pull § 87(2)(b) from her vehicle, push her against it, or drag her to a vehicle.

PO Indovino and PO Tambe each testified that they did not see how § 87(2)(b) came to be outside of her vehicle. Both PO Indovino and PO Tambe denied seeing officers use any physical force against § 87(2)(b).

Sgt. Jimenez was not present during this aspect of the incident.

According to NYPD Patrol Guide, Procedure 221-02 (Board Review 20), officers may use reasonable force under the circumstances to gain control of a person who is resisting being placed into custody.

§ 87(2)(g)

§ 87(2)(g)

Allegation F – Abuse of Authority: At Bryant Avenue and Bruckner Boulevard in the Bronx, Police Officer Angel Andujar seized § 87(2)(b)'s property.

§ 87(2)(b) testified that her 2017 grey Mercedes Benz § 87(2)(b) was seized pursuant to her arrest. § 87(2)(b) was interviewed at the CCRB on June 20, 2018, and as of that date, her vehicle remained in police custody. § 87(2)(b) also acknowledged that at the time of her arrest, which occurred during rush hour on a Tuesday, she was driving in a three-lane section of Bruckner Boulevard with no shoulder, and the sole occupant of her vehicle was § 87(2)(b)-old § 87(2)(b).

PO Andujar corroborated that he seized § 87(2)(b)'s vehicle and subsequently vouchered (Board Review 21) it as arrest evidence.

According to NYPD Patrol Guide, Procedure 218-12 (Board Review 22), when necessary, officers may safeguard vehicles in police custody at the stationhouse.

§ 87(2)(g)

Allegation G – Abuse of Authority: At the 41st Precinct stationhouse, Sergeant David Jimenez threatened to notify Administration for Children's Services.

§ 87(2)(b) testified that at the 41st Precinct stationhouse, Sgt. Jimenez requested the phone number of § 87(2)(b)'s parents. § 87(2)(b) refused to provide this information. Sgt. Jimenez allegedly told § 87(2)(b) that he would have to call ACS if he could not reach § 87(2)(b)'s parents, at which point § 87(2)(b) provided him with their contact information.

Sgt. Jimenez (Board Review 23) had no recollection of discussing § 87(2)(b) with § 87(2)(b). Sgt. Jimenez did not recall if he ever told § 87(2)(b) that he would call ACS if he could not reach § 87(2)(b)'s parents, but stated that procedurally, an officer would be required to notify ACS if they cannot reach the parent or guardian of a minor child in their care.

According to NYPD Patrol Guide, Procedure 215-02 (Board Review 24), an officer is required to notify ACS if a child is not claimed from the stationhouse within a reasonable amount of time.

§ 87(2)(g)

Allegation H – Abuse of Authority: At the 41st Precinct stationhouse, Sergeant David Jimenez did not process § 87(2)(b)'s complaint regarding officers.

§ 87(2)(b) testified that she told Sgt. Jimenez she wanted to file a “verbal complaint” and that she planned to call IAB and the CCRB upon her release from police custody. § 87(2)(b)

§ 87(2)(b)

- § 87(2)(g)

- § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: #6

Investigator: _____

Signature _____ Print Title & Name _____ Date _____

Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature _____ Print Title & Name _____ Date _____

